



January 26, 2006

HOUSE BILL No. 1358

DIGEST OF HB 1358 (Updated January 25, 2006 4:37 pm - DI 103)

Citations Affected: IC 6-9; IC 36-7; noncode.

Synopsis: Special economic development project districts. Allows: (1) a city; or (2) a county that contains a city; that has designated an economic development project district (EDPD) to designate the EDPD as a special retail district for retail projects and attractions that meet certain criteria. Provides that if a district is designated, an additional 1% sales tax applies to retail transactions within the district. Specifies that this additional 1% sales tax is imposed, paid, and collected in the same manner as the state sales tax. Requires the amounts received from the additional 1% sales tax to be paid monthly by the treasurer of the state to the county fiscal officer and deposited into a special fund. Allows money in the special fund to be used for any purpose that a property tax increment could be used. Authorizes a city in which a retail project or attraction that meets certain investment criteria is located to designate an EDPD. (Current law allows only four specifically listed cities to designate an EDPD.) Authorizes the use of sales tax increment financing in the EDPD for retail projects and attractions meeting certain investment criteria.

Effective: July 1, 2006.

Behning, Reske

January 12, 2006, read first time and referred to Committee on Commerce, Economic Development and Small Business.
January 25, 2006, amended, reported — Do Pass.

HB 1358—LS 7012/DI 92+



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January 26, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1358

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-39 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:

4 **Chapter 39. Special Retail District Supplemental Gross Retail**
5 **Tax**

6 **Sec. 1. Except as otherwise provided in this chapter, the**
7 **definitions in IC 6-2.5-1 apply throughout this chapter.**

8 **Sec. 2. As used in this chapter, "commission" refers to:**

- 9 (1) a redevelopment commission established under IC 36-7-14
10 in the case of a city other than a consolidated city; or
11 (2) the metropolitan development commission in the case of a
12 consolidated city.

13 **Sec. 3. As used in this chapter, "fiscal body" has the meaning set**
14 **forth in IC 36-1-2-6.**

15 **Sec. 4. As used in this chapter, "fiscal officer" has the meaning**
16 **set forth in IC 36-1-2-7.**

17 **Sec. 5. As used in this chapter, "gross retail income" has the**

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1 meaning set forth in IC 6-2.5-1-5, except that the term does not
2 include taxes imposed under IC 6-2.5 or IC 6-9.

3 Sec. 6. (a) Subject to subsection (b), the fiscal body of:

4 (1) a city; or

5 (2) a county that contains a city;

6 in which an economic development project district has been
7 designated under IC 36-7-26-16 may adopt an ordinance
8 designating the economic development project district as a special
9 retail district.

10 (b) The fiscal body may adopt an ordinance under subsection (a)
11 only after January 1 but before April 1 of a year.

12 (c) If the fiscal body adopts an ordinance under subsection (a),
13 it shall immediately send a certified copy of the ordinance to the
14 commissioner of the department of state revenue.

15 Sec. 7. (a) If the fiscal body of a city or county adopts an
16 ordinance designating a special retail district under section 6 of
17 this chapter, a one percent (1%) supplemental gross retail tax is
18 imposed on the transactions described in section 8 of this chapter
19 that occur within the district.

20 (b) The supplemental gross retail tax imposed by subsection (a):

21 (1) takes effect July 1 following the adoption of the ordinance
22 under section 6 of this chapter; and

23 (2) is in addition to any other tax imposed on the transactions
24 described in section 8 of this chapter.

25 Sec. 8. (a) Except as provided in subsection (b), the
26 supplemental gross retail tax imposed by section 7 of this chapter
27 applies to all retail transactions that occur within the special retail
28 district designated under section 6 of this chapter.

29 (b) The supplemental gross retail tax does not apply to a
30 transaction to the extent that the transaction is exempt from the
31 state gross retail tax under IC 6-2.5.

32 Sec. 9. (a) The supplemental gross retail tax imposed by section
33 7 of this chapter is imposed only on the gross retail income derived
34 from retail transactions.

35 (b) A person who receives goods or services in a retail
36 transaction that is taxed under this chapter is liable for the
37 supplemental gross retail tax. The person shall pay the tax to the
38 retail merchant as a separate amount added to the consideration
39 for the goods or services. The retail merchant shall collect the tax
40 as an agent for the state and the city or county, as applicable.

41 (c) Except as otherwise provided in this chapter, the
42 supplemental gross retail tax shall be imposed, paid, and collected

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in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 10. (a) The amounts received from the supplemental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the city or county that designated the special retail district under section 6 of this chapter upon warrants issued by the auditor of state.

(b) The amounts received by the fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by a commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-14-39 or IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 11. (a) Subject to subsection (c), the fiscal body of a city or county may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the supplemental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the supplemental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

SECTION 2. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter applies to the following:

(1) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(2) A city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).

(3) A city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand

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(500,000).

(4) A city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000).

(5) A city with an economic development project that meets the project development criteria set forth in section 14(d) of this chapter.

SECTION 3. IC 36-7-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Present economic conditions in certain areas of certain cities are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Encouraging economic development in these areas will:

(1) attract new businesses and encourage existing business to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

(d) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.

(e) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

(f) This chapter shall be liberally construed to carry out the purposes of this chapter and to provide cities with maximum flexibility to accomplish those purposes.

(g) The general assembly affirms that the findings in subsections (a) through (e) apply to a city described in section 1(5) of this chapter.

SECTION 4. IC 36-7-26-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. As used in this chapter, "commission" refers to a redevelopment commission established under IC 36-7-14 **or, in the case of a consolidated city, the metropolitan development commission.**

SECTION 5. IC 36-7-26-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission or any city under this chapter, ~~or~~

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1 IC 36-7-14, **or IC 36-7-15.1.**

2 SECTION 6. IC 36-7-26-14, AS AMENDED BY P.L.185-2005,
3 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2006]: Sec. 14. (a) Whenever a commission determines that
5 the redevelopment and economic development of an area situated
6 within the commission's jurisdiction may require the establishment of
7 a district, the commission shall cause to be assembled data sufficient
8 to make the determinations required under section 15 of this chapter,
9 including the following:

10 (1) Maps and plats showing the boundaries of the proposed
11 district.

12 (2) A complete list of street names and the range of street
13 numbers of each street situated in the proposed district.

14 (3) A plan for the redevelopment and economic development of
15 the proposed district. The plan must describe the local public
16 improvements necessary or appropriate for the redevelopment or
17 economic development.

18 (b) For a city described in section 1(2) or 1(3) of this chapter, the
19 proposed district must contain a commercial retail facility with at least
20 five hundred thousand (500,000) square feet, and any distributions
21 from the fund must be used in the area described in subsection (a) or
22 in areas that directly benefit the area described in subsection (a).

23 (c) For a city described in section 1(4) of this chapter, the proposed
24 district may not contain any territory outside the boundaries of a
25 redevelopment project area established within the central business
26 district of the city before 1985.

27 **(d) For a city described in section 1(5) of this chapter:**

28 **(1) the proposed district may not exceed four hundred (400)**
29 **acres;**

30 **(2) the proposed district must be established for the purpose**
31 **of undertaking a project, or a series of projects, that have a**
32 **total private capital investment of more than one hundred**
33 **million dollars (\$100,000,000);**

34 **(3) the total capital investment for the project, or series of**
35 **projects, must be more than five hundred million dollars**
36 **(\$500,000,000) at the completion of the project, or series of**
37 **projects; and**

38 **(4) the project would not otherwise be accomplished through**
39 **the ordinary operations of private investment because of the**
40 **unique quality and scope of the project or series of projects.**

41 SECTION 7. IC 36-7-26-23 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) Before the first

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business day in October of each year, the board shall require the department to calculate the net increment for the preceding state fiscal year. The department shall transmit to the board a statement as to the net increment in sufficient time to permit the board to review the calculation and permit the transfers required by this section to be made on a timely basis.

(b) There is established a sales tax increment financing fund to be administered by the treasurer of state. The fund is comprised of two (2) accounts called the net increment account and the credit account.

(c) On the first business day in October of each year, that portion of the net increment calculated under subsection (a) that is needed:

(1) to pay debt service on the bonds issued under section 24 of this chapter or to pay lease rentals under section 24 of this chapter; ~~and~~

(2) to establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission; **and**

(3) with respect to a city described in section 1(5) of this chapter, and as certified by the city, for any other purpose for which property taxes allocated to a redevelopment district under IC 36-7-14-39 or IC 36-7-15.1-26 may be expended;

shall be transferred to and deposited in the fund and credited to the net increment account. Money credited to the net increment account is pledged to the purposes described in subdivisions (1) and (2), subject to the other provisions of this chapter.

(d) On the first business day of October in each year, the remainder of:

(1) eighty percent (80%) of the gross increment; minus

(2) the amount credited to the net increment account on the same date;

shall be transferred and credited to the credit account.

(e) The remainder of:

(1) the gross increment; minus

(2) the amounts credited to the net increment account and the credit account;

shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(f) A city described in section 1(2), 1(3), or 1(4) of this chapter may receive not more than fifty percent (50%) of the net increment each year. During the time a district exists in a city described in section 1(3) or 1(4) of this chapter, not more than a total of one million dollars (\$1,000,000) of net increment may be paid to the city described in

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section 1(3) or 1(4) of this chapter. During each year that a district exists in a city described in section 1(2) of this chapter, not more than one million dollars (\$1,000,000) of net increment may be paid to the city described in section 1(2) of this chapter.

(g) A city described in section 1(5) of this chapter may not receive any net increment until the commission and the board determine that the fiscal body of the city has pledged local revenues other than money received under this chapter or IC 6-9-39 to any bonds payable wholly or in part from the net increment. The amount of the local revenues pledged by the city must equal at least twenty percent (20%) of the total annual debt service and debt service reserve transferred under subsection (c)(1) and (c)(2). In addition, the commission and the board must determine that the project for which the city has pledged its revenues meets either of the following criteria:

(1) The following circumstances exist:

(A) There is not an existing similar retail project or attraction of a private company that has been proposed to be located within the district or within sixty-five (65) miles of the district.

(B) The private company proposing to locate within the district has committed to not establishing a similar retail project or attraction within one hundred twenty (120) miles of the district.

(C) The private company's retail project or attraction located in the district has a capital investment of at least twenty-five million dollars (\$25,000,000).

(2) The project consists of a multi-tenant project or attraction that contains:

(A) at least five hundred thousand (500,000) square feet; and

(B) at least two (2) retail projects that meet the criteria described in subdivision (1).

(g) (h) The auditor of state shall disburse all money in the fund that is credited to the net increment account to the commission in equal semiannual installments on November 30 and May 31 of each year.

SECTION 8. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The

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term of any bonds issued under this section may not exceed twenty (20) years, nor may the term of any lease agreement entered into under this section exceed twenty (20) years. The commission shall transmit to the board a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) This subsection applies only to bonds issued with respect to a project described in section 23(g) of this chapter. The bonds shall be sold by private sale for the price or prices, in the manner, and at the times determined by the city to one (1) or more of the private companies locating a retail project or attraction in the district. Bonds sold under this subsection are not in any manner a general obligation of the state.

~~(b)~~ (c) On January 15 of each year, the commission shall remit to the treasurer of state the money disbursed from the fund that is credited to the net increment account that exceeds the amount needed:

- (1) to pay debt service or lease rentals ~~and under this chapter~~;
- (2) to establish and maintain a debt service reserve under this chapter; **and**
- (3) with respect to a city described in section 1(5) of this chapter, for the uses permitted under section 23(c)(3) of this chapter;**

in the prior year and before May 31 of that year. Amounts remitted under this subsection shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

~~(c)~~ (d) The commission in a city described in section 1(2) of this chapter may distribute money from the fund only for the following:

- (1) Road, interchange, and right-of-way improvements.
- (2) Acquisition costs of a commercial retail facility and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.
- (3) Demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.
- (4) For physical improvements or alterations of property that enhance the commercial viability of the district.

~~(d)~~ (e) The commission in a city described in section 1(3) of this chapter may distribute money from the fund only for the following purposes:

- (1) For road, interchange, and right-of-way improvements and for

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real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(2) For the demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

~~(e)~~ (f) The commission in a city described in section 1(4) of this chapter may distribute money from the fund only for the following purposes:

(1) For:

(A) the acquisition, demolition, and renovation of property; and

(B) site preparation and financing; related to the development of housing in the district.

(2) For physical improvements or alterations of property that enhance the commercial viability of the district.

(g) The commission in a city described in section 1(5) of this chapter may distribute money from the fund for any purpose for which property tax proceeds allocated to a redevelopment district may be expended under IC 36-7-14 or IC 36-7-15.1

SECTION 9. IC 36-7-26-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14, ~~or~~ IC 36-7-14.5, **or IC 36-7-15.1** to finance public improvements within or serving the proposed district, subject to the granting of an additional credit under IC 36-7-14-39.5, **IC 36-7-15.1-26.5, IC 36-7-15.1-35, or IC 36-7-15.1-56.** The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

SECTION 10. [EFFECTIVE JULY 1, 2006] **(a) Notwithstanding IC 6-9-39-6, as added by this act, the fiscal body of:**

(1) a city; or

(2) a county that contains a city;

in which an economic development project district has been designated under IC 36-7-26-16 may adopt an ordinance designating the economic development project district as a special retail district after June 30, 2006, and before October 1, 2006.

(b) Notwithstanding IC 6-9-39-7, as added by this act, a

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1 supplemental gross retail tax is imposed on the transactions
 2 described in IC 6-9-39-8, as added by this act, that occur within the
 3 special retail district designated in an ordinance adopted under this
 4 SECTION.

5 (c) Notwithstanding IC 6-9-39-7, as added by this act, a
 6 supplemental gross retail tax imposed under this SECTION takes
 7 effect January 1, 2007.

8 (d) This SECTION expires January 2, 2007.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1358, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 3, after "of" insert ":

(1)".

Page 2, line 3, after "city" insert "; **or**

(2) a county that contains a city;".

Page 2, line 3, beginning with "in" begin a new line blocked left.

Page 2, line 13, after "city" insert "**or county**".

Page 2, line 38, delete "." and insert "**or county, as applicable.**".

Page 3, line 6, after "city" insert "**or county**".

Page 3, line 9, delete "city".

Page 3, line 16, after "city" insert "**or county**".

Page 9, line 33, after "of" insert ":

(1)".

Page 9, line 33, after "city" insert "; **or**

(2) a county that contains a city;".

Page 9, line 33, beginning with "in" begin a new line blocked left.

and when so amended that said bill do pass.

(Reference is to HB 1358 as introduced.)

HARRIS T, Chair

Committee Vote: yeas 8, nays 0.

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